

## NAVAL WARFARE

*Circular dated May 13, 1898, with exchange of notes between the United States and Switzerland April 23–May 10, 1898, and text of articles VI–XV of the additional articles to the Geneva (Red Cross) convention<sup>1</sup> adopted as a modus vivendi by the United States and Spain*

*Entered into force May 13, 1898*

*Terminated April 11, 1899<sup>2</sup>*

Treaty Series 388

### CIRCULAR

It is the desire and purpose of the United States in its conduct of war to observe the most humane and enlightened principles in the treatment of the sick, wounded, and dying. It recognizes the very great service rendered to that end by the conference of Geneva, held in the year 1864, which framed certain humane and expedient regulations for the care of the wounded and sick in the field. These were embodied in the convention of August 22, 1864, which has been ratified or adhered to by most of the civilized powers.

In 1868 a second international conference was held at Geneva, when it was proposed that the regulations contained in the original articles concerning military warfare be extended and adapted so far as practicable to war at sea. Fifteen articles, known as the “additional articles of 1868,” were proposed, Articles VI to XV of which relate exclusively to marine warfare. In the subsequent discussion of them, an amendment to Article IX was proposed by France, and in correspondence between England and France, Article X was interpreted and elucidated. These “additional articles,” al-

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<sup>1</sup> Fifteen additional articles to the Red Cross convention of Aug. 22, 1864 (TS 377, *ante*, vol. 1, p. 7), were concluded at Geneva Oct. 20, 1868. They did not enter into force, but they were included in the Senate's resolution of advice and consent (Mar. 16, 1882) to accession to the original convention and in the President's proclamation of July 26, 1882.

<sup>2</sup> Date of entry into force of treaty of peace signed at Paris Dec. 10, 1898 (TS 343, *post*, p. 615).

though acceded to by the United States March 1, 1882, subject to promulgation after general exchange of ratifications, have never been formally adopted or ratified by the powers. During the Franco-Prussian war, however, they were adopted as a *modus vivendi* between the belligerents.

Upon the breaking out of the present hostilities between the United States and Spain, the United States at once commissioned the ambulance ship *Solace* to accompany the Atlantic fleet as a noncombatant hospital ship, to be employed solely to render aid to the sick, wounded, and dying, and to observe in spirit the additional articles of the Geneva Conference.

On the 23d day of April, 1898, this Government was addressed by the Swiss Minister at this capital proposing the formal adoption by this Government and by the Government of Spain of the additional articles, as a *modus vivendi*, during the present hostilities with Spain. The United States Government was readily disposed thereto, and on the 9th day of May sent to the Swiss Minister notice of its adoption of the same as a *modus vivendi*. It has this day been informed by the Swiss Minister of a like adoption thereof by the Government of Spain.

For the more complete understanding of the position of the United States with respect to such *modus vivendi*, the correspondence between the United States and the Swiss Government and between the Departments of State and Navy of this Government are printed hereinafter, and marked Exhibit A.

The additional articles, as amended in Article IX, and with memorandum as to the interpretation given to Article X, together with a translation of the full text of the French letter of interpretation of the 26th of February, 1869, are printed as Exhibit B.

WILLIAM R. DAY

DEPARTMENT OF STATE

May 13, 1898

EXHIBIT A

*The Swiss Minister to the Secretary of State*

[TRANSLATION]

SWISS LEGATION

WASHINGTON, April 23, 1898

MR. SECRETARY OF STATE:

War having been now unhappily declared between the United States and Spain, my Government, in its capacity as the intermediary organ between the signatory states of the convention of Geneva, has decided to propose to the cabinets of Washington and Madrid to recognize and carry into execution, as a *modus vivendi*, during the whole duration of hostilities, the additional articles proposed by the international conference which met at Geneva

on October 20, 1868, to the convention of Geneva of August 22, 1864, which (additional articles) extend the effects of that convention to naval wars. Although it has as yet been impossible to convert the said draft of additional articles into a treaty, still, in 1870, Germany and France, at the suggestion of the Swiss Federal Council, consented to apply the additional articles, as a *modus vivendi*, during the whole duration of hostilities. The Federal Council proposes the additional articles as they have been amended at the request of France and construed by that power and Great Britain.

My Government, while instructing me to make this proposition to Your Excellency, recall the fact that, on March 1, 1882, the President of the United States declared that he acceded, not only to the Geneva Convention of August 22, 1864, but also to the additional articles of October 20, 1868.

The Spanish Government, likewise, in 1872, declared itself ready to adhere to these articles. The Federal Council, therefore, hopes that the two Governments will agree to adopt the measure, the object of which is to secure the application on the seas of the humane principles laid down in the Geneva Convention.

With the confident expectation of a favorable reply from the United States Government to this proposal, I avail myself, etc.,

J. B. PIODA

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*The Secretary of State to the Swiss Minister*

DEPARTMENT OF STATE  
WASHINGTON, April 25, 1898

SIR:

I have the honor to acknowledge the receipt of your note of the 23d instant, whereby, in view of the condition of war existing between the United States and Spain, you communicate the purpose of your Government to propose to the cabinets of Washington and Madrid that they recognize and carry into execution, as a *modus vivendi*, during the whole duration of hostilities, the additional articles proposed by the International Conference of Geneva, under date of October 20, 1868, for the purpose of extending to naval wars the effects of the convention of Geneva of August 22, 1864, for the succor of the wounded in armies in the field.

As you note in the communication to which I have the honor to reply, the United States, through the act of the President, did on the 1st day of March, 1882, accede to the said additional articles of October 20, 1868, at the same time that it acceded to the original convention of Geneva of August 22, 1864; but, as is recited in the President's proclamation of July 26, 1882, a copy of which I enclose herewith,<sup>3</sup> the exchange of the ratifica-

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<sup>3</sup> Not printed here.

tions of the aforesaid additional articles of October 20, 1868, had not then (nor has since) taken place between the contracting parties, so that the promulgation of the accession of the United States to the said additional articles was (and still remains) reserved until the exchange of the ratifications thereof between the several contracting states shall have been effected and the said additional articles shall have acquired full force and effect as an international treaty.

I find, upon examination of the published correspondence which took place in 1870 at the time of the war between France and North Germany (British and Foreign State Papers, vol. 60, pp. 945-946), that upon the initiative of the Prussian Minister at Berne, followed by the proposal made by the Government of the Swiss Confederation to the French and North German Governments, the then belligerents severally notified to the Government of Switzerland their willingness to accept provisionally and at once to establish as a *modus vivendi* applicable to the war then in progress, both by sea and land, all the additional articles to the convention of Geneva of October 20, 1868, together with the subsequent interpretations of the ninth and tenth articles thereof agreed upon and proposed by England and France. I understand from your note that, although those articles have not as yet become a matter of international convention, it is desired that the United States and Spain accede to the same, together with the same amendments and construction as above stated. I entertain no doubt that the United States will readily lend its support and approval to the general purpose of those articles and be in favor of adopting them as a *modus vivendi*; it has ever been in favor of proper regulations for the mitigation of the hardships of war. But before it can accede to them as a matter of fact, in the present instance, it must first fully understand the nature and text of the amendments and construction placed upon the articles by France and England as stated by you.

I would respectfully suggest, therefore, that there be furnished to this Government either the text or a clear exposition of the articles, with the amendments and constructions referred to, in order that the understanding may be complete. A certain pamphlet, written by Lieut. Col. Poland in 1886, is said to contain these amendments and constructions, but there is not now accessible to the Department of State a copy of such pamphlet or other reliable means of information on the subject. I shall await with pleasure fuller and exact information from you of the terms to which we are asked to accede.

Accept, etc.,

JOHN SHERMAN

*The Swiss Minister to the Secretary of State*

[TRANSLATION]

LEGATION OF SWITZERLAND

IN THE UNITED STATES

WASHINGTON, D. C., May 4, 1898

MR. SECRETARY OF STATE:

I have had the honor to receive the note which your honorable predecessor did me the favor of addressing to me under the date of the 25th of April, in reply to mine of the 23d of the same month, upon the subject of the proposition of my Government to the cabinets of Washington and Madrid to adopt as a *modus vivendi*, pending the entire duration of the war, the articles of the 20th of October, 1868, additional to those of the convention of Geneva of the 22d of August, 1864.

The documents which, in the aforesaid note of your predecessor, were desired and which, as I have had the opportunity of telling you verbally, my Government had sent at the same time that it instructed me by cable to make the overtures on the subject, have just arrived, and I enclose them herein in duplicate copies. They confirm the text of the additional articles, the modification of Article IX proposed by France and the notes exchanged between England and France concerning the import of Article X. The Spanish Government having, by note of its Legation of the 7th of September, 1872, also declared that it was ready to adhere to the articles in question, the Federal Council hopes that the Governments of America and Spain, appreciating the sentiments which have guided it in its course, will be of accord in adopting as a *modus vivendi* a measure which has for its purpose the securing of the application upon the sea of the humanitarian principles consecrated by the Geneva Convention.

Awaiting your communication to me of the decision which the Government of the United States shall see fit to take in regard to this proposition, I offer you, Mr. Secretary of State, the expression of my very highest consideration.

J. B. PLODA

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*The Acting Secretary of State to the Secretary of the Navy*

DEPARTMENT OF STATE

WASHINGTON, May 4, 1898

The Honorable

The SECRETARY OF THE NAVY

SIR:

I have the honor to enclose herewith copy of the below-mentioned correspondence and papers touching the proposition of the Government of Switzerland, in its capacity as the intermediary organ between the signatory states to the convention of Geneva, that the cabinets of Washington and

Madrid recognize and carry into execution, as a *modus vivendi*, during the duration of hostilities, the additional articles proposed by the International Conference of Geneva, under date of October 20, 1868, for the purpose of extending to naval warfare the effects of the Convention of Geneva of August 22, 1864, for the succor of the wounded in armies in the field.

While these additional articles have never been promulgated by the United States, the fitting out and equipping of the *Solace*, referred to in your Department's General Order No. 487, as an ambulance ship for naval service under the terms of the Geneva Convention, is in the direction of their observance, and I submit the proposition of the Swiss Government that they may be recognized and carried into execution as a *modus vivendi* as deserving of your early attention.

Respectfully yours,

J. B. MOORE  
*Acting Secretary*

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*The Secretary of the Navy to the Secretary of State*

NAVY DEPARTMENT  
WASHINGTON, May 7, 1898

The Honorable

The SECRETARY OF STATE

SIR:

I have the honor to return herewith enclosures transmitted with your letter of May 4, 1898, referring to the additional articles proposed by the International Conference of Geneva.

Referring to the endorsement of the Surgeon-General of the Navy, a copy of which is herewith enclosed, I would recommend that steps be forthwith taken with the Government of the Swiss Confederation to make the proposed *modus vivendi* effective during the continuance of the present war between the United States and Spain. For its part, the Government of the United States will observe the conditions of the *modus vivendi* in the Department of the Navy.

I have, etc.,

JOHN D. LONG  
*Secretary*

[SECOND ENDORSEMENT]

BUREAU OF MEDICINE AND SURGERY  
DEPARTMENT OF THE NAVY  
May 6, 1898

SUBJECT:

State Department, 4th May, 1898, *modus vivendi*, ambulance ship *Solace*, General Order No. 487.

Noted, and respectfully returned to Department. As the ambulance ship *Solace* has been

fitted and equipped under the terms of the Geneva Convention, it is earnestly requested that the Department recommend the recognition and carrying into execution as a *modus vivendi* during the duration of hostilities the additional articles referred to.

The *Solace* is the first government vessel of any nation fitted and equipped under these terms, and it is due to the United States that her status should receive international recognition.

W. K. VAN REYPEN  
*Surgeon-General, U.S.N.*

*General Order No. 487*

NAVY DEPARTMENT  
WASHINGTON, *April 27, 1898*

The *Solace* having been fitted and equipped by the Department as an ambulance ship for the naval service under the terms of the Geneva Convention is about to be assigned to service.

The Geneva Cross flag will be carried at the fore whenever the national flag is flown.

The neutrality of the vessel will, under no circumstances, be changed, nor will any changes be made in her equipment without the authority of the Secretary of the Navy.

No guns, ammunition, or articles contraband of war, except coal or stores necessary for the movement of the vessel, shall be placed on board; nor shall the vessel be used as a transport for the carrying of despatches, or officers or men not sick or disabled, other than those belonging to the medical department.

Information as to the special work for which the *Solace* is intended will be communicated to the commander in chief of the squadron by the Department.

JOHN D. LONG  
*Secretary*

*The Secretary of State to the Swiss Minister*

DEPARTMENT OF STATE  
WASHINGTON, *May 9, 1898*

SIR:

Upon receiving your note of the 4th instant, in reply to mine of the 25th of April, concerning the proposition of the Government of the Swiss Confederation that the United States and Spain adopt as a *modus vivendi*, pending the entire duration of the war, the articles of October 20, 1868, additional to those of the convention of Geneva of August 22, 1864, I communicated all the papers in the case to the Secretary of the Navy, calling his attention to the form of the *modus vivendi* adopted during the Franco-German war, which your Government was pleased to suggest as a precedent to be followed during the existing war. The printed paper you enclose, besides giving the text of the original additional articles of October 20, 1868, contains the correspondence had in 1868 and 1869 concerning the interpretation of Articles IX and X of the said additional convention, and thus establishes the precise nature of the understanding to which France and the North German States respectively acceded.

As so expressed, the Government of the United States finds no difficulty

in acceding to the suggestion of the Government of Switzerland. It had, in fact, anticipated it, so far as concerns its own conduct of hostilities and its own purpose to observe the humane dictates of modern civilization in the prosecution of warfare upon the sea as well as upon land by fitting out and equipping a special ambulance ship, the *Solace*, in conformity with the terms of the additional convention aforesaid, thus confirming emphatically its adhesion to the principles of that beneficent arrangement without regard to the absence of its formal ratification by the various signatories.

I am happy, therefore, to advise you, and through you the Government of the Swiss Confederation, that the Government of the United States will for its part, and so long as the present war between this country and Spain shall last, treat as an effective *modus vivendi* the fourteen additional articles of October 20, 1868, with the interpretations of the ninth and tenth articles thereof appearing in the publication you communicate to me. While it is proper to adopt this course on its own account, and without reference to such action as Spain may take, this Government would nevertheless be glad to hear that the representations made by your Government to that of Spain had met with a favorable response in order that the two parties to the present contest may stand pledged to the same humane and enlightened conduct of naval operations as respects the sick and wounded as was recognized and adopted by the respective parties to the Franco-Prussian war.

Should the Government of Spain likewise accede to the Swiss proposition, I should be much gratified to be apprised of the fact, and also that the Spanish accession contemplates acceptance of the interpretations of Articles IX and X which were adopted by France and the North German States and which are embraced in the proposition of your Government.

Accept, etc.,

WILLIAM R. DAY

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*The Swiss Minister to the Secretary of State*

[TRANSLATION]

SWISS LEGATION IN THE UNITED STATES

WASHINGTON, D.C., May 9, 1898

MR. SECRETARY OF STATE:

As I had the honor verbally to inform the Assistant Secretary of State this morning, my Government has charged me to bring to the knowledge of Your Excellency that the Spanish Government has accepted the proposition of the Federal Council concerning the additional articles of the Geneva Convention.

I doubt not that Your Excellency will be pleased very soon to enable me to announce to the Federal Council that the Government of the Union also



adheres for its part to the proposed *modus vivendi*, and in this expectation I offer to Your Excellency the expression of my very high consideration.

J. B. PIODA

*The Secretary of State to the Swiss Minister*

DEPARTMENT OF STATE  
WASHINGTON, May 10, 1898

SIR:

I have the honor to acknowledge the receipt of your note of May 9, formally notifying me that the Spanish Government has accepted the proposition of the Federal Council concerning the additional articles of the Geneva Convention, and expressing the hope that you would soon be enabled to inform your Government that the United States Government adheres for its part to the proposed *modus vivendi*.

As you were advised in the verbal interview with the Second Assistant Secretary of State, to which you refer in your note of the 9th, I have already had the pleasure of informing you, by my official note of that date that the United States Government would for its part treat as an effective *modus vivendi* the additional articles of 1868, with the amendments and interpretations of Articles IX and X thereof appearing in the publication communicated to me by you. I trust that that note, which apparently had not reached your hands at the time of your note to me of the same date, has now been received by you and its contents transmitted to the Federal Council.

Be pleased to accept, etc.,

WILLIAM R. DAY

EXHIBIT B

*Additional Articles of October 20, 1868, VI to XV*

ARTICLES CONCERNING THE MARINE

ART. VI. The boats which, at their own risk and peril, during and after an engagement pick up the shipwrecked or wounded, or which, having picked them up, convey them on board a neutral or hospital ship, shall enjoy, until the accomplishment of their mission, the character of neutrality, as far as the circumstances of the engagement and the position of the ships engaged will permit.

The appreciation of these circumstances is entrusted to the humanity of all the combatants. The wrecked and wounded thus picked up and saved must not serve again during the continuance of the war.

ART. VII. The religious, medical, and hospital staff of any captured vessel are declared neutral, and, on leaving the ship, may remove the articles and surgical instruments which are their private property.

ART. VIII. The staff designated in the preceding article must continue to fulfill their functions in the captured ship, assisting in the removal of the wounded made by the victorious party; they will then be at liberty to return to their country, in conformity with the second paragraph of the first additional article.<sup>4</sup>

The stipulations of the second additional article<sup>5</sup> are applicable to the pay and allowance of the staff.

ART. IX. The military hospital ships remain under martial law in all that concerns their stores; they become the property of the captor, but the latter must not divert them from their special appropriation during the continuance of the war.

[The vessels not equipped for fighting, which, during peace, the Government shall have officially declared to be intended to serve as floating hospital ships, shall, however, enjoy during the war complete neutrality, both as regards stores, and also as regards their staff, provided their equipment is exclusively appropriated to the special service on which they are employed.]

ART. X. Any merchantman, to whatever nation she may belong, charged exclusively with removal of sick and wounded, is protected by neutrality, but the mere fact, noted on the ship's books, of the vessel having been visited by an enemy's cruiser, renders the sick and wounded incapable of serving during the continuance of the war. The cruiser shall even have the right of putting on board an officer in order to accompany the convoy, and thus verify the good faith of the operation.

If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerent.

The belligerents retain the right to interdict neutralized vessels from all communication, and from any course which they may deem prejudicial to the secrecy of their operations. In urgent cases special conventions may be entered into between commanders in chief, in order to neutralize temporarily and in a special manner the vessels intended for the removal of the sick and wounded.

ART. XI. Wounded or sick sailors and soldiers, when embarked, to whatever nation they may belong, shall be protected and taken care of by their captors.

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<sup>4</sup> ART. I. The persons designated in Article II of the convention shall, after the occupation by the enemy, continue to fulfill their duties, according to their wants, to the sick and wounded in the ambulance or the hospital which they serve. When they request to withdraw, the commander of the occupying troops shall fix the time of departure, which he shall only be allowed to delay for a short time in case of military necessity.

<sup>5</sup> ART. II. Arrangements will have to be made by the belligerent powers to ensure to the neutralized person, fallen into the hands of the army of the enemy, the entire enjoyment of his salary.

Their return to their own country is subject to the provisions of Article VI of the convention and of the additional Article V.<sup>6</sup>

ART. XII. The distinctive flag to be used with the national flag, in order to indicate any vessel or boat which may claim the benefits of neutrality, in virtue of the principles of this convention, is a white flag with a red cross. The belligerents may exercise in this respect any mode of verification which they may deem necessary.

Military hospital ships shall be distinguished by being painted white outside, with green strake.

ART. XIII. The hospital ships which are equipped at the expense of the aid societies, recognized by the governments signing this convention, and which are furnished with a commission emanating from the sovereign, who shall have given express authority for their being fitted out, and with a certificate from the proper naval authority that they have been placed under his control during their fitting out and on their final departure, and that they were then appropriated solely to the purpose of their mission, shall be considered neutral, as well as the whole of their staff. They shall be recognized and protected by the belligerents.

They shall make themselves known by hoisting, together with their national flag, the white flag with a red cross. The distinctive mark of their staff, while performing their duties, shall be an armlet of the same colors. The outer painting of these hospital ships shall be white, with red strake.

These ships shall bear aid and assistance to the wounded and wrecked belligerents, without distinction of nationality.

They must take care not to interfere in any way with the movements of the combatants. During and after the battle they must do their duty at their own risk and peril.

The belligerents shall have the right of controlling and visiting them; they will be at liberty to refuse their assistance, to order them to depart, and to detain them if the exigencies of the case require such a step.

The wounded and wrecked picked up by these ships can not be reclaimed by either of the combatants, and they will be required not to serve during the continuance of the war.

ART. XIV. In naval wars any strong presumption that either belligerent takes advantage of the benefits of neutrality, with any other view than the interest of the sick and wounded, gives to the other belligerent, until proof to the contrary, the right of suspending the convention as regards such belligerent.

Should this presumption become a certainty, notice may be given to such

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<sup>6</sup> ART. V. In addition to Article VI of the convention, it is stipulated that, with the reservation of officers whose detention might be important to the fate of arms and within the limits fixed by the second paragraph of that article, the wounded fallen into the hands of the enemy shall be sent back to their country after they are cured, or sooner if possible, on condition, nevertheless, of not again bearing arms during the continuance of the war.

belligerent that the convention is suspended with regard to him during the whole continuance of the war.

ART. XV. The present act shall be drawn up in a single original copy, which shall be deposited in the archives of the Swiss Confederation.

An authentic copy of this act shall be delivered, with an invitation to adhere to it, to each of the signatory powers of the convention of the 22d of August, 1864, as well as to those that have successively acceded to it.

In faith whereof, the undersigned commissaries have drawn up the present project of additional articles and have apposed thereunto the seals of their arms.

[Done at Geneva, the twentieth day of the month of October, of the year one thousand eight hundred and sixty-eight.]

#### *Note*

(a) The amendment proposed by France is contained in brackets after Article IX.

(b) The interpretation placed upon Article X by England and France is to the following effect:

The question being raised as to whether, under Article X, a vessel might not avail herself of the carrying of sick or wounded to engage with impunity in traffic otherwise hazardous under the rules of war, it was agreed that there was no purpose in the articles to modify in any particular the generally admitted principles concerning the rights of belligerents; that the performance of such services of humanity could not be used as a cover either for contraband of war or for enemy merchandise; and that every boat which or whose cargo would, under ordinary circumstances, be subject to confiscation can not be relieved therefrom by the sole fact of carrying sick and wounded.

Question being raised as to whether, under Article X, an absolute right was afforded to a blockaded party to freely remove its sick and wounded from a blockaded town, it was agreed that such removal or evacuation of sick and wounded was entirely subject to the consent of the blockading party. It should be permitted for humanity's sake where the superior exigencies of war may not intervene to prevent, but the besieging party might refuse permission entirely.

The full text of the French interpretation of Article X is subjoined.

#### *Note touching the interpretation of Article X additional to the convention of Geneva*

[TRANSLATION]

The second paragraph of the additional Article X reads thus: "If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerent."

The words "of a nature to be confiscated by the belligerent" apply equally to the nationality of the merchandise and to its quality.

Thus, according to the latest international conventions, the merchandise of a nature to be confiscated by a cruiser are:

First. Contraband of war under whatever flag.

Second. Enemy merchandise under enemy flag.

The cruiser need not recognize the neutrality of the vessel carrying wounded if any part of its cargo shall, under international law, be comprised in either of these two categories of goods.

The faculty given by the paragraph in question to leave on board of vessels carrying wounded a portion of the cargo is to be considered as a facility for the carriage of freight, as well as a valuable privilege in favor of the navigability of merchant vessels if they be bad sailors when only in ballast; but this faculty can in no wise prejudice the right of confiscation of the cargo within the limits fixed by international law.

Every ship the cargo of which would be subject to confiscation by the cruiser under ordinary circumstances is not susceptible of being covered by neutrality by the sole fact of carrying in addition sick or wounded men. The ship and the cargo would then come under the common law of war, which has not been modified by the convention except in favor of the vessel exclusively laden with wounded men, or the cargo of which would not be subject to confiscation in any case. Thus, for example, the merchant ship of a belligerent laden with neutral merchandise and at the same time carrying sick and wounded is covered by neutrality.

The merchant ship of a belligerent carrying, besides wounded and sick men, goods of the enemy of the cruiser's nation or contraband of war is not neutral, and the ship, as well as the cargo, comes under the common law of war.

A neutral ship carrying, in addition to wounded and sick men of the belligerent, contraband of war also is subject to the common law of war.

A neutral ship carrying goods of any nationality, but not contraband of war, lends its own neutrality to the wounded and sick which it may carry.

In so far as concerns the usage which expressly prohibits a cartel ship from engaging in any commerce whatsoever at the point of arrival, it is deemed that there is no occasion to specially subject to that inhibition vessels carrying wounded men, because the second paragraph of Article X imposes upon the belligerents, equally as upon neutrals, the exclusion of the transportation of merchandise subject to confiscation.

Moreover, if one of the belligerents should abuse the privilege which is accorded to him, and under the pretext of transporting the wounded should neutralize under its flag an important commercial intercourse which might in a notorious manner influence the chances or the duration of the war, Article XIV of the convention could justly be invoked by the other belligerent.

As for the second point of the note of the British Government, relative to the privilege of effectively removing from a city, besieged and blockaded by sea, under the cover of neutrality, vessels bearing wounded and sick men, in such a way as to prolong the resistance of the besieged, the convention does not authorize this privilege. In according the benefits of a neutral status of a specifically limited neutrality to vessels carrying wounded, the convention could not give them rights superior to those of other neutrals who can not pass an effective blockade without special authorization. Humanity, however, in such a case, does not lose all its rights, and, if circumstances permit the besieging party to relax the rigorous rights of the blockade, the besieged party may make propositions to that end in virtue of the fourth [third] paragraph of Article X.